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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,561	10/30/2003	Patrick Euzen	PET-2105	5909

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EXAMINER

NGUYEN, CAM N

ART UNIT PAPER NUMBER

1754

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/696,561

Applicant(s)

EUZEN ET AL.

Examiner

Cam N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 19-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date originally filed.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### **Response to Election/Restrictions**

1. Applicant's election of Group I, claims 1-18, in the reply filed on April 21, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 19-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention(s), there being no allowable generic or linking claim. Election was made without traverse in the reply filed on April 21, 2006.

### **Claim Objections**

3. Claims 5-7, 9, & 12-13 are objected to because of the following informalities:
- A. In claims 1 & 9, the last two lines, "encompassed in the group that consists of" should be deleted and replaced thereof with --selected from the group consisting of--.
  - B. In claim 5, line 1, --further-- should be inserted before "comprising".
  - C. In claim 6, line 1, --further-- should be inserted before "comprising".
  - D. In claim 7, line 1, --further-- should be inserted before "comprising".
  - E. In claim 9, line 3, "characterized in that" is suggested deleted and replaced thereof with --comprising--.

F. In claims 12 & 13, the last two lines, same as in A above.

Appropriate correction is required.

**Claim Rejections - 35 USC § 112 (Second Paragraph)**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Claims 1, 9, & 12-13 recite the limitation "the transition aluminas" in the second to the last two lines. There is insufficient antecedent basis for this limitation in the claim.

B. Regarding claims 1, 9, 12, & 13, the limitation on "an X-ray diffraction diagram that contains at least the main lines that are characteristic of at least one of the transition aluminas ..." is unclear as to what x-ray diffraction characteristics or properties are being claimed.

**Claim Rejections - 35 USC § 102(e)**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Benazzi et al., "hereinafter Benazzi", (US Pat. 6.733,657).

Benazzi discloses a catalyst comprising at least one hydro-dehydrogenating element and a substrate comprising silica-alumina material, wherein said silica-alumina material having the following characteristics: a silica content of 10-60% by weight, a sodium content of less than 300 ppm by weight, a total pore volume of between 0.5 and 1.2 ml/g, a volume of mesopores with a diameter of between 40-150 Å, and a mean diameter of between 80-120 Å representing 30-80% of the total pore volume, a volume of macropores with a diameter of greater than 500 Å representing 20-80% of the total pore volume, and a specific surface area of greater than 200 m<sup>2</sup>/g (see col. 12, claim 1). The silica-alumina comprises Al<sub>VI</sub> (octahedral) species and Al<sub>IV</sub> (tetrahedral) species, and wherein the proportion of the tetrahedral Al<sub>IV</sub> is between 20% and 40% (see col. 12, claim 2). See also col. 12, claim 3. the catalyst further comprising at least one of boron and silicon (see col. 12, claim 4). See col. 12, claims 5 & 6 for additional metals. See also col. 2, ln 50- col. 12, ln 7, for more details regarding catalyst properties and hydrogenation elements.

No patentable distinction is seen between the claimed catalyst and that disclosed by Benazzi. Thus, the claims are anticipated by the teaching of the reference.

**Claim Rejections - 35 USC § 102(b)**

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 1-18 are rejected under 35 U.S.C. 102(b) as anticipated by Sherwood, Jr. et al., "hereinafter Sherwood, Jr.", (US Pat. 6,136,179).

Sherwood, Jr. discloses a catalyst which comprises a Group VIII non-noble metal oxide, and a Group VI-B metal oxide on an alumina or-silica-alumina support; etc. (see col.14, claim 1, ln 30-33). The Group VIII non-noble metal oxide is nickel oxide and the Group VI-B metal oxide is molybdenum oxide (see col. 14, claim 2). The alumina or silica-alumina has a Total Surface Area from about 150 to 240 m<sup>2</sup>/g, a Total Pore Volume (TPV) from 0.7 and 0.98 and a pore diameter distribution such that no more than 20% of the TPV is present as primary micropores having diameters no greater than 100 A, at least about 34% of the TPV is present as secondary micropores having diameter from about 100 to 200 A, and from about 26% to 46% of the TPV is present as macropores having diameters of at least 200A (see col. 14, claim 3). See also col. 5, ln 40- col. 11, ln 20, & Examples for more details regarding the catalyst properties.

No patentable distinction is seen between the claimed catalyst and that disclosed by Sherwood, Jr. Thus the claims are anticipated by the teaching of the reference.

**Citations**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form attached.

**Conclusion**

11. Claims 1-35 are pending. Claims 1-18 are rejected. Claims 19-35 are withdrawn due to non-elected (distinct) invention(s). No claims are allowed.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M, W, R, & F, 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CAM N. NGUYEN  
PRIMARY EXAMINER

Nguyen/cnn *cnn*  
August 01, 2006

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